

Object of the Society is to collect cotton from the Members of the Society and to sell it in a manner, which would benefit its members the most. It is also its Object to see that members of the Society are supplied good quality seeds for cultivation of cotton, etc.

3. By an order dated 23rd June, 1997, a copy of which has been annexed and marked Annexure 'E' to the petition, respondent No.2 had passed an interim order under provisions of Sections 107 and 108 of the Act. By virtue of the said order, the petitioner-Society is sought to be wound up and a show cause notice has been given to the petitioner-Society. It has been stated in the said show cause notice that the Petitioner-Society had not started its activities, as stated in sub-rule 2 (1 to 10) of its Byelaws. It also appears that necessary action for amending Byelaws with regard to maintaining ceiling for cash on hand had also not been made by the petitioner-Society. Moreover, suggestions made by the Auditor were also not carried out and without previous sanction of the District Registrar, Cooperative Societies, the Society had used the "Price Increase Decrease Fund". It is also alleged that correct financial aspect had not been depicted in the balance sheet and the General Body of the Society was misled. It has also been stated in the said show cause notice that the Society had violated some of the provisions of its Byelaws.

4. In view of the above-referred circumstances, respondent No.2 was prima facie of the view that the Petitioner-Society should be wound up and, therefore, an interim order, winding up the petitioner-Society was passed by respondent No.2 under provisions of Section 107(1) of the Act.

5. Learned Advocate Shri Harin Raval, appearing for the petitioner, has submitted that the impugned order is illegal and is against the provisions of the law. It has been submitted by him that before passing the impugned order dated 23rd June, 1997, respondent No.2 ought to have heard the petitioner-Society. It has been submitted by him that though there is no provision with regard to giving hearing before passing such an interim order for winding up, as per law laid down by this Honourable Court in Apexa Cooperative Bank Limited v. District Registrar and others, 1993(2) GLH 861, respondent No.2 was duty bound to hear the petitioner. It is not in dispute that by virtue of the above-referred judgment delivered by this Court, it has been held that even though an interim order is passed under provisions of Section 107(1) of the

Act, the said order is quasi judicial in nature and, therefore, before passing such an order, the concerned Society must be heard.

6. Though several other averments are made in the petition, in my opinion, only on the above-referred ground, the petitioner should succeed. Learned AGP Ms. Amee Yajnik could not dispute the fact that as per law laid down by this Court in the judgment referred to hereinabove, the petitioner-Society ought to have been heard before passing the impugned order. However, she has submitted that the petitioner-Society had given reply to the said show cause notice on 17th July, 1997 and without waiting for the final outcome, the petitioner-Society has rushed to this Court. It has been submitted by her that as the petitioner has already submitted to the jurisdiction of respondent No.2, the petitioner cannot challenge the validity of the said order at this stage. I do not think that there is any substance in the said submission for the simple reason that it was obligatory on the part of the respondent No.2 to hear the petitioner-Society before passing the impugned order. Simply because the petitioner has given reply to the said show cause notice, it cannot be said that the petitioner cannot approach this Court for ventilating his grievances or for challenging the validity of the said order.

7. It is an admitted fact that the petitioner-Society was not heard before the impugned order was passed and, therefore, in my opinion, the said order is violative of principles of natural justice and, therefore, it is illegal, and, therefore, on that ground alone, it deserves to be quashed and set aside.

8. The petition, therefore, is accepted. The order dated 23rd June, 1997 passed by respondent No.2 is hereby quashed and set aside. Rule is made absolute with no order as to costs.

(apj)